

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WILLIAM TELFORD, individually, and on
behalf of all others similarly situated

Plaintiffs,

MEMORANDUM & ORDER
09-CV-5518(JS)(AKT)

-against-

IDEAL MORTGAGE BANKERS, LTD., d/b/a LEND
AMERICA, INC.,

Defendants.

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APPEARANCES:

For Plaintiff: Erik Harald Langeland, Esq.
Erik H. Langeland, P.C.
500 Fifth Avenue, Ste 1610
New York, NY 10110

For Defendant: No appearances.

SEYBERT, District Judge:

Pending before the Court is Magistrate Judge A. Kathleen Tomlinson's Report & Recommendation ("R&R"), issued August 17, 2010. For the foregoing reasons, the Court ADOPTS this R&R in its entirety. Consequently, Plaintiff's motion for a default judgment (Docket No. 6) is GRANTED.

BACKGROUND

On December 17, 2009, William Telford commenced this putative class action against Ideal Mortgage Bankers, Ltd. d/b/a Lend America, Inc. ("Lend America"), alleging that Lend America violated the WARN Act, 29 U.S.C. § 2101 et seq., by terminating approximately 500 employees, including himself, without giving

them sixty days advance notice of their terminations, or providing them with 60 days of post-termination wages and ERISA benefits. Lend America did not appear in this litigation, or respond to Plaintiff's putative class action complaint. On February 4, 2010, Plaintiff moved for a default judgment, which the Court referred to Judge Tomlinson for her R&R.

On August 17, 2010, Judge Tomlinson issued the R&R, recommending that: (1) a default judgment be entered against Lend America on the merits; (2) Plaintiff inform the Court within 14 days whether he intends to seek class certification or proceed as an individual; (3) if Plaintiff wishes to proceed as a putative class, Plaintiff be given the opportunity to conduct discovery for 90 days on the issues of class certification and damages; and (4) following resolution of any outstanding class certification questions, a formal hearing be conducted on the issues of damages and attorneys' fees. No party has filed any objections to this R&R.

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on

the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotations omitted).

Here, no party objected to Judge Tomlinson's R&R. And the Court finds Judge Tomlinson's R&R to be correct, comprehensive, well-reasoned, and free of any clear error. Accordingly, the Court ADOPTS it in its entirety.

CONCLUSION

Plaintiff's motion for a default judgment (Docket No. 6) is GRANTED. A default judgment is entered against Lend America on the merits. Within 14 days, Plaintiff must inform the Court as to whether he intends to seek class certification or proceed as an individual. If Plaintiff wishes to proceed as a putative class, Plaintiff shall have the opportunity to conduct discovery for 90 days on the issues of class certification and damages. Following resolution of any outstanding class certification issues, either the Court or Judge Tomlinson shall conduct a formal hearing on damages and attorneys' fees.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: September 27, 2010
Central Islip, New York